IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 21538 of 2004

Between:

P.Gangadhar Rao S/o.Late P.Hanumantha Rao

Aged about 62 years, Occ:Retd.Employee,

R/o.19-2-105, Tadbun, Miralam Tank Road,

Badhurpura, Hyderabad.

..... PETITIONER

AND

1. District Registrar/Divisional Co-Operative Officer,

Manoranjan Complex,

Nampally, Hyderabad.

2. Co-Operative Sub-Registrar/Sales Officer,

Office in premises Bharat Mercantile Co-Operative Bank,

MGR Estates, Dwarkapuri Colony, Punjagutta, Hyderabad.

3. Bharat Mercantile Co-operative Urban Bank Ltd. Rep. By

Managing Director, GMR Estates,

Dwarkapuri Colony, Punjagutta, Hyderabad.

4. Asha Pawar W/o. Ramesh Kumar Pawar

Aged about 36 years, Occ: Business,

R/o.19-4-274/A/5, Miralam X Road, Hyderabad.

5. Ramesh Kumar Pawar, S/o. Late Hanumanth Rao Pawar

Aged about 40 years,

Occ: Business,

R/o.19-4-274/A/5, Miralam X Road, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or orders one in the nature of Writ of Mandamus by declaring the inaction of the respondent No.2 for not passing any orders on a claim petition along with the stay application filed by the petitioner on 9-11-2004 and by setting aside the notice of sale of the immovable property of Form No.8, Rule 52(iii) (c) dated 2-11-2004, in respect of property bearing No.19-2-105 admeasuring 178 square yards situated Tadban, Hyderabad till the final decision of CCCA.135/02 before the Hon'ble High Court of A.P and declare the same as null and void, totally illegal, arbitrary against the principle of natural justice and pass such other order or orders as this Hon'ble Court may deem fit in the circumstances of the case.

Counsel for the Petitioner: MR.SURESH SHIV SAGAR

Counsel for the Respondent Nos.1 and 2.: GP FOR COOPERATION

The Court made the following :

ORDER:

At the instance of respondent No.2, a Cooperative Urban Bank, the 1st respondent passed an order of recovery against respondents 4 and 5. For realization of the amount, certain items of property are sought to be sold, in the process of execution, by the 2nd respondent. The petitioner states that he has submitted a claim petition under Rule 52 of the A.P. Cooperative Rules, 1964, read with Section 64 of the A.P. Cooperative Societies Act, together with an application to stay further proceedings. His grievance is that, even before the claim petition or the stay petition is disposed of, the 2nd respondent is proceeding with the auction. Learned counsel submits that if the item of property, in question, is sold, in the meanwhile, nothing remains to be decided in the claim petition.

Heard the learned counsel for the petitioner and learned Government Pleader for Cooperation.

The limited grievance of the petitioner is as to the inaction on the part of the 2nd respondent to consider the claim petition, or the stay petition filed along with it. The auction is schedule to be held on 10-12-2004. There is ample time for the 2nd respondent to dispose of the application before the sale is taken up. A claim petition, by its very nature, is required to be taken up before the property is brought to sale.

Hence, the writ petition is disposed of, directing the 2nd respondent to consider and pass appropriate orders in the claim petition or, at least in the stay petition filed by the petitioner, in relation to the properties that are sought to be sold, before conducting the auction. There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.24-11-2004

KO

To

1. The District Registrar/Divisional Co-Operative Officer,

Manoranjan Complex,

Nampally, Hyderabad.

2. The Co-Operative Sub-Registrar/Sales Officer,

Office in premises Bharat Mercantile Co-Operative Bank,

MGR Estates, Dwarkapuri Colony, Punjagutta, Hyderabad.

3. The Bharat Mercantile Co-operative Urban Bank Ltd. Rep. By

Managing Director, GMR Estates,

Dwarkapuri Colony, Punjagutta, Hyderabad.

4. Two C.Cs. to G.P. for Cooperation, High Court Buildings,

High Court of A.P., Hyderabad (OUT).

5. Two C.D. copies.

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.21538 OF 2004

DATED : 24.11.2004